

REMARKS

I. INTRODUCTION

Claims 1, 6, 7, and 11 have been amended. Support for the amendments can be found at least at ¶ [0022] and Fig. 1 of the published application. Thus, claims 1-12 remain pending in the present application. No new matter has been added. In light of the above amendments and the following remarks, Applicant respectfully submits that all presently pending claims are in condition for allowance.

II. THE 35 U.S.C. § 102 REJECTIONS SHOULD BE WITHDRAWN

Claims 1-7 and 9-11 stand rejected under 35 U.S.C. §102(b) for being anticipated by Kraan (U.S. Patent No. 6,009,792).

Claim 1 has been amended to recite, “[a] beverage making device comprising a frothing member for producing froth in the beverage and an outflow means for guiding the beverage outside the device, wherein the device comprises a settling chamber for allowing the frothed beverage coming from the frothing member to settle, and in that the outlet for the settled beverage is at the lower side of the settling chamber, wherein *a size of the outlet is limited so as to form a restriction which has a smaller diameter than the outflow means, wherein the outlet forms an entrance of the outflow means*, and wherein the frothed beverage is guided along a guiding surface in a central portion of the settling chamber.”

Kraan discloses an apparatus for making coffee comprising a receiving space (25) with a collecting reservoir (28) inside and an outflow opening (26) extending from the receiving space (25). (*See* Kraan, col. 3, ll. 45-48, Figs. 1-5A). The collective reservoir (28) has an opening (30) near the side of the apparatus with the outflow opening (26). (*See Id.*, Figs. 1-5A). However, claim 1 has been amended to further clarify the claimed invention. As amended, “*the outlet forms an entrance of the outflow means.*” In contrast, the opening (30) of Kraan is positioned near the outflow opening (26) but does not form the entrance of the outflow opening (26). Accordingly, Kraan fails to disclose or suggest

“a size of the outlet is limited so as to form a restriction which has a smaller diameter than the outflow means, and wherein the outlet forms an entrance of the outflow means,” as recited in claim 1. Applicant respectfully submits that claim 1 and its dependent claims 2-5, 6-7, and 9-10 are allowable over Kraan.

Claim 11 also recites, *“a size of the outlet is limited so as to form a restriction which has a smaller diameter than the outflow means, and wherein the outlet forms an entrance of the outflow means.”* Thus, it is respectfully submitted that claim 11 is also allowable over Kraan for at least the foregoing reasons presented with regards to claim 1.

Claims 1 and 11 stand rejected under 35 U.S.C. §102(e) as anticipated by Cai (U.S. Patent No. 6,840,158).

Claim 1 recites, “the frothed beverage is guided along a guiding surface in a central portion of the settling chamber.” Cai discloses a device for preparing coffee with a holding container (38). (See Cai, col. 7, ll. 66-67). Coffee exits a central channel (20) from its lower end (20b) and enters the holding container (38). (See Id., Figs. 4-6). In the embodiments of Figs. 4 and 6, the coffee subsequently exits the holding container (38) via a dispensing spout (36). (See Id., col. 8, ll. 4-8, Figs. 4 and 6). Since the Examiner equates the dispensing spout (26) to the claimed outflow means, then the Examiner must also be equating the holding container (38) to the claimed settling chamber. However, Cai is silent with regards to “a guiding surface in a central portion” of the holding container (38). Therefore, Applicant respectfully submits that claim 1 and is allowable over Cai.

Claim 11 recites, *“a size of the outlet is limited so as to form a restriction which has a smaller diameter than the outflow means, wherein the outlet forms an entrance of the outflow means.”* Thus, for at least the same reasons described above with respect to claim 1, it is respectfully submitted that claim 11 is also allowable over Cai.

Claims 1 and 11 stand rejected under 35 U.S.C. §102(e) as anticipated by Brouwer (U.S. Published App. No. 2004/0094472).

Initially, Applicant respectfully submits that this is an improper §102(e) rejection because the elements identified by the Examiner as corresponding to the claimed invention do not exist in Brouwer. The “nozzle 32,” “outflow means 66,” “settling chamber 34,” and “outlet 60” do not exist in Brouwer. Applicant has further tried to locate these elements in the “prior art made of record and not relied upon,” but could not find these elements in those documents either. Therefore, Applicant respectfully requests a subsequent non-final office action with a proper §102(e) rejection in which the Examiner correctly specifies which elements in Brouwer allegedly meet the limitations of claims 1 and 11.

However, even if this was a proper §102(e) rejection, Applicant respectfully submits that Brouwer fails to disclose or suggest the limitations of claim 1. Brouwer discloses a coffee-making apparatus with a duct (10) that provides coffee extract to a buffer reservoir (16) with a bottom (12). (See Brouwer, ¶ [0022], Fig. 1). Four openings (30.1, 30.2, 32.1, 32.2) are disposed in the bottom (12). (See Id., ¶¶ [0026]-[0027], Fig. 1). Subsequently, the coffee exits the apparatus via two outlets (4.1, 4.2) under which two cups (5.1, 5.2) can be placed to collect the coffee. (See Id., ¶ [0021], Fig. 1). Two cups (5.1, 5.2) may be placed directly under these outlets to receive the prepared coffee. (See Id.). Although the openings (30.1, 30.2, 32.1, 32.2) may be smaller than the outlets (4.1, 4.2), they do not *form the entrance* of the outlets.

Furthermore, Brouwer is silent with regards to a guiding means located in the center of the buffer reservoir. In Fig. 1 of Brouwer, the flow of coffee is indicated by means of dotted lines on both sides of partition 26. (See Id., Fig. 1). These dotted lines indicate that the coffee enters the buffer reservoir (16) as extract jets (14.1, 14.2), exits the openings (30.1, 30.2, 32.1, 32.2), and exits the outlets (4.1, 4.2). (See Id.). The only element located at the center of buffer chamber (16) is liquid flow decelerating barrier (50), which reduces liquid flows and turbulences. (See Id., ¶ [0029]). Brouwer fails to

disclose or suggest that the liquid flow decelerating barrier (50) is used to guide the coffee extract. Accordingly, Brouwer fails to disclose or suggest *“a size of the outlet is limited so as to form a restriction which has a smaller diameter than the outflow means, wherein the outlet forms an entrance of the outflow means, and wherein the frothed beverage is guided along a guiding surface in a central portion of the settling chamber,”* as recited in claim 1. Therefore, Applicant respectfully submits that claim 1 and is allowable over Brouwer.

Claim 11 recites, *“a size of the outlet is limited so as to form a restriction which has a smaller diameter than the outflow means, wherein the outlet forms an entrance of the outflow means, and wherein the frothed beverage is guided along a guiding surface in a central portion of the settling chamber.”* Thus, for at least the same reasons described above with respect to claim 1, it is respectfully submitted that claim 11 is also allowable over Brouwer.

III. THE 35 U.S.C. § 103(a) REJECTION SHOULD BE WITHDRAWN

Claims 8 and 12 stand rejected under 35 U.S.C. §103(a) for being obvious over Kraan, Cai, or Brouwer.

Applicant respectfully submits that Kraan, Cai, and Brouwer, taken alone or in any combination, fail to disclose or suggest, *“a size of the outlet is limited so as to form a restriction which has a smaller diameter than the outflow means, wherein the outlet forms an entrance of the outflow means, and wherein the frothed beverage is guided along a guiding surface in a central portion of the settling chamber,”* as recited in claim 1. Because claims 8 and 12 depend on and, therefore, include all of the limitations of claim 1, it is respectfully submitted that these claims are allowable.

CONCLUSION

In light of the foregoing, Applicant respectfully submits that all of the presently pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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